

3470

MONTANA LEGISLATIVE HISTORY

Chapter 415 19 82

Bill H _____ S 152 Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) Mar 13 ✓ c

Mar 23 ✓ c

_____ c

_____ c

Date Out Mar 23 ✓ c

S. Committee on Judiciary

Hearing Date(s) Jan 29 ✓ c

Feb 03 ✓ c

_____ c

_____ c

Feb 03 ✓ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE BILL NO. 152

INTRODUCED BY WALKER, LYNCH, REGAN, JACOBSON,
SQUIRES, MCCALLUM, FARRELL, MANNING, DRISCOLL

IN THE SENATE

JANUARY 20, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 5, 1987	COMMITTEE RECOMMEND BILL DO NOT PASS. REPORT ADOPTED.
FEBRUARY 6, 1987	ON MOTION, RECONSIDER ACTION TAKEN ON ADVERSE COMMITTEE REPORT. ON MOTION, REREFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 17, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1987	PRINTING REPORT.
FEBRUARY 19, 1987	SECOND READING, DO PASS.
FEBRUARY 20, 1987	ENGROSSING REPORT.
FEBRUARY 21, 1987	THIRD READING, PASSED. AYES, 45; NOES, 4. TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 23, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 28, 1987	SECOND READING, CONCURRED IN.

MARCH 30, 1987

THIRD READING, CONCURRED IN.
AYES, 88; NOES, 10.

RETURNED TO SENATE.

IN THE SENATE

MARCH 31, 1987

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

1 *Senate* BILL NO. *152* *Agrees*
2 INTRODUCED BY *Walker Lynch Bay*
3 *Mr. Ballan* *Fancy Richard* *Thanning Ormick*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE TIME
5 FOR FILING A COMPLAINT WITH THE COMMISSION FOR HUMAN RIGHTS
6 BE INCREASED IF THE PARTIES ATTEMPT TO RESOLVE THE DISPUTE
7 BY SETTLEMENT, ARBITRATION, OR ANY OTHER METHOD; AMENDING
8 SECTIONS 49-2-501 AND 49-3-304, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
10 DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 49-2-501, MCA, is amended to read:

14 "49-2-501. Filing complaints. (1) A complaint may be
15 filed by or on behalf of any person claiming to be aggrieved
16 by any discriminatory practice prohibited by this chapter.
17 The complaint must be in the form of a written, verified
18 complaint stating the name and address of the person,
19 educational institution, financial institution, or
20 governmental entity or agency alleged to have engaged in the
21 discriminatory practice and the particulars of the alleged
22 discriminatory practice. The commission staff may file a
23 complaint in like manner when a discriminatory practice
24 comes to its attention.

25 (2) (a) A Except as provided in subsections (2)(b) and

1 (2)(c), a complaint under this chapter must be filed with
2 the commission within 180 days after the alleged unlawful
3 discriminatory practice occurred or was discovered.

4 (b) A complaint need not be filed until 180 days after
5 failure of all reasonable good faith attempts to resolve the
6 matter by:

- 7 (i) negotiation;
- 8 (ii) settlement;
- 9 (iii) arbitration;
- 10 (iv) an administrative, grievance, or other procedure
11 adopted by either party; or
- 12 (v) any other method.

13 (c) For purposes of subsection (2)(b), the period for
14 making all reasonable good faith attempts to resolve the
15 matter is limited to 6 months after the alleged unlawful
16 discriminatory practice occurred or was discovered, but the
17 6-month period may be extended for an additional 6 months
18 upon written agreement of the parties.

19 (d) Any complaint not filed within the time times set
20 forth herein may not be considered by the commission."

21 Section 2. Section 49-3-304, MCA, is amended to read:

22 "49-3-304. Filing complaints. (1) A Except as provided
23 in subsections (2) and (3), a complaint under this chapter
24 must be filed with the commission within 180 days after the
25 alleged unlawful discriminatory practice occurred or was

1 discovered.

2 (2) A complaint need not be filed until 180 days after
 3 failure of all reasonable good faith attempts to resolve the
 4 matter by:

5 (a) negotiation;
 6 (b) settlement;
 7 (c) arbitration;
 8 (d) an administrative, grievance, or other procedure
 9 adopted by either party; or
 10 (e) any other method.

11 (3) For purposes of subsection (2), the period for
 12 making all reasonable good faith attempts to resolve the
 13 matter is limited to 6 months after the alleged unlawful
 14 discriminatory practice occurred or was discovered, but the
 15 6-month period may be extended for an additional 6 months
 16 upon written agreement of the parties.

17 (4) A complaint not filed within ~~that-time~~ the times
 18 set forth in this section may not be considered by the
 19 commission."

20 NEW SECTION. Section 3. Extension of authority. Any
 21 existing authority of the human rights commission to make
 22 rules on the subject of the provisions of this act is
 23 extended to the provisions of this act.

24 NEW SECTION. Section 4. Effective date --
 25 applicability. (1) This act is effective on passage and

1 approval.

2 (2) This act applies retroactively, within the meaning
 3 of 1-2-109, MCA, to July 1, 1986.

-End-

SENATE FINAL STATUS

REPORT ADOPTED

79 18

4/03 SIGNED BY PRESIDENT
4/04 SIGNED BY SPEAKER

4/04 TRANSMITTED TO GOVERNOR
4/09 SIGNED BY GOVERNOR
CHAPTER NUMBER 414 EFFECTIVE DATE: 7/01/87

SB 152 INTRODUCED BY WALKER, LYNCH, REGAN, ET AL.
EXTEND TIME FOR FILING COMPLAINT WITH HUMAN RIGHTS
COMMISSION

1/20 INTRODUCED
1/20 REFERRED TO JUDICIARY
1/27 HEARING
2/05 ADVERSE COMMITTEE REPORT ADOPTED 35 15
2/06 RECONSIDERED ADOPTION OF ADVERSE
COMMITTEE REPORT 40 9
2/06 REREFERRED TO JUDICIARY
2/17 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/19 2ND READING PASSED 50 0
2/21 3RD READING PASSED 45 4

TRANSMITTED TO HOUSE
2/23 REFERRED TO JUDICIARY
3/13 HEARING
3/23 COMMITTEE REPORT--BILL CONCURRED 82 3
3/28 2ND READING CONCURRED 88 10
3/30 3RD READING CONCURRED

RETURNED TO SENATE
4/03 SIGNED BY PRESIDENT
4/04 SIGNED BY SPEAKER
4/04 TRANSMITTED TO GOVERNOR
4/09 SIGNED BY GOVERNOR
CHAPTER NUMBER 415 EFFECTIVE DATE: 4/09/87

SB 153 INTRODUCED BY WALKER, LYNCH, JACOBSON, ET AL.
EXTEND TIME FOR REDEPOSITING CONTRIBUTIONS IN
CERTAIN RETIREMENT SYSTEMS
BY REQUEST OF PUBLIC EMPLOYEES' RETIREMENT BOARD

1/20 INTRODUCED
1/20 REFERRED TO STATE ADMINISTRATION
1/23 HEARING
1/23 COMMITTEE REPORT--BILL PASSED 50 0
1/27 2ND READING PASSED 50 0
1/29 3RD READING PASSED

TRANSMITTED TO HOUSE
2/04 REFERRED TO STATE ADMINISTRATION
3/04 HEARING
3/04 COMMITTEE REPORT--BILL CONCURRED 98 0
3/05 2ND READING CONCURRED 94 0
3/06 3RD READING CONCURRED

RETURNED TO SENATE
3/10 SIGNED BY PRESIDENT
3/11 SIGNED BY SPEAKER
3/11 TRANSMITTED TO GOVERNOR
3/16 SIGNED BY GOVERNOR

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 27, 1987

The fifteenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 27, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 152: Senator Mike Walker of Senate District #20 introduced SB 152, which amends the statutes relating to filing of a person that has 180 days after an alleged unlawful discriminatory practice has occurred to file a complaint with the Commission. He said the bill extends the filing period to six months if the parties attempt to resolve the dispute by settlement, arbitration or any other method. He said one of his constituents had a problem with the Human Rights Commission. The constituent's 180 days elapsed in her case and she would like to have the amount of days be extended. He handed out an amendment from the Human Rights Commission (see Exhibit 1).

PROPOSERS: Gertrude R. Lindgren, representing herself, explained her case, which she presented to the Human Rights Commission, to the committee. She gave the committee a copy of her hearing in front of the Human Rights Commission and their response (see Exhibit 2, 3, and 4).

Kathi Mitchell, Personnel/EEO Officer from Missoula, supported the bill (see Exhibit 5).

OPPOSERS: LeRoy Schram, Montana University System, said he understood Ms. Lindgren situation. He said over \$40,000 was spent on her case. He said the trouble with using these alternative procedures, like arbitration, is they are not binding in the Human Rights field. He said if the University, as the employer, goes into an arbitration which includes the Human Rights Division, the University system has to pay "back pay" and reinstate the employee. He said that is fine because the University System agreed in the contract, which is final and binding. He said the case law that has been built up on this subject says a contract isn't binding on the claimant, so the claimant can go back into the Human Rights Commission and they can find a new finding on the case. He said the amendments he presented would help cases like Ms. Lindgren's case because the grievance procedures would not end at the College President's Office (see Exhibit 6). He stated if you are going to encourage people to use these procedures then the procedures should be mandatory and mean something.

DISCUSSION ON SB 152: Senator Crippen asked if the Human Rights Commission

was involved in the drafting of the bill. Ann MacIntyre, Human Rights Commission, said they were not involved in the drafting. Senator Crippen asked what her reaction was to the bill. Ms. MacIntyre said it will make it more difficult for the Commission to know when the statute of limitations has run out. She stated there is a problem when someone is attempting to use the grievance procedure and the claimant does not understand he has to file with the Commission within a 180 days, regardless if he is trying to exhaust that procedure. She said an amendment that would allow claimants not to file with the Human Rights Commission until after the completion of the grievance procedure would be a good change. Senator Crippen inquired if Title 7 under the statute of limitation part allows a 180 days. Ms. MacIntyre responded that was correct and it even allows up to 300 days in certain cases. Senator Crippen thought the bill would cause some confusion because the federal act has a different statute of limitation set than what the bill has. Ms. MacIntyre answered it will cause some confusion.

Senator Mazurek inquired why the bill is effective on passage and retro-active. Senator Walker said he wants to take care of his constituent. Senator Mazurek asked how many cases will the bill open up if it passes. Ms. MacIntyre replied that it will be hard to tell because the Commission will have to go back through correspondence and see what was turned down. She said Ms. Lindgren's case would not become timely with this bill because the grievance procedure started October 29, 1984 and she filed with the Commission on February 6, 1985.

Senator Walker closed on SB 152 by saying the Schram amendments were fine.

CONSIDERATION ON SB 104: Senator Pinsoneault, Senate District #27, introduced SB 104, which amends the laws relating to arrest by private persons, particularly arrest of a suspected shoplifter by a merchant. He said the bill repeals Section 46-5-504 of the MCA. He said the concealment of merchandise shall not constitute proof of the commission of the offense of theft. He gave the committee a copy of the 46-5-504 (see Exhibit 7).

PROPOSERS: Frank Capps, Montana Food District Association, stated the problem is when a person will take an item from the shelf and walks out of the store, but they can see they are going to be stopped by a merchant, so all that person has to do is drop the item and that person is free to go because the merchant under today's law can not prosecute someone who is attempting to shoplift.

George Allen, Montana Retail Association, he said section 46-5-504 and 46-5-501 are conflicting each other and if 46-5-504 is repealed it will help the merchants.

Tom Dowling, Montana Retail Association, said he doesn't understand why

SENATE JUDICIARY

EXHIBIT NO. 2

DATE Jan. 27, 1987

BILL NO. SB 152

HEARING BEFORE THE HUMAN RIGHTS COMMISSION

STATE OF MONTANA

HEARING ORDER INFORMATION
NO. SAED 85-2711

FROM: GERTRUDE R. LINDGREN, CHARGING PARTY
TO: JAMES W. ZION, HEARING EXAMINER
C.C. WILLIAM A. SHIELDS, PRESIDENT,
COLLEGE OF GREAT FALLS, RESPONDENT

THE FOLLOWING INFORMATION IS SUBMITTED AS REQUESTED BY HEARING EXAMINER
IN HEARING ORDER OF AUGUST 7, 1986 PAGE 3 NUMBER 6 SECTION A WHICH ORDERED:

"A SHORT STATEMENT OF CONTENTIONS WHICH WILL BE THE SUBJECT OF TESTIMONY AT
AT HEARING AS TO WHY THE COMPLAINT SHOULD NOT BE DISMISSED FOR A FAILURE TO
FILE A COMPLAINT WITHIN 180 DAYS OF THE DATE OF THE ALLEGED DISCRIMINATORY ACT."

CONTENTIONS:

1. THERE ARE FACTS, MATTERS AND CIRCUMSTANCES UNDER WHICH THE FILING SHOULD
BE DEEMED TO BE TIMELY: THESE ARE THE FOLLOWING:

A. THE COLLEGE OF GREAT FALLS DID NOT FINISH ITS PROCEDURE FOR STUDENT
APPEAL IN ACADEMIC MATTERS (STUDENT RIGHTS AND RESPONSIBILITIES HANDBOOK -
COLLEGE OF GREAT FALLS) UNTIL I RECEIVED DR. WILLIAM SHIELD'S, PRESIDENT OF
COLLEGE OF GREAT FALLS, LETTER ON OCTOBER 29, 1984 INFORMING ME THAT HE WAS
UPHOLDING HIS FACULTY MEMBERS AND THE STUDENT-FACULTY COMMITTEE IN THEIR
DECISION PROCESS. I WAS TOLD BY DEAN OF STUDENT AFFAIRS SIKORA THAT THE GRACE
COULD BE CHANGED TO AN "A" AT ANY STAGE IN THE COLLEGE PROCESS. IT WOULD
THEREFORE BE ILLOGICAL FOR ME TO START PROCEEDINGS WITH THE HUMAN RIGHTS
COMMISSION BEFORE THE PROCESS WAS COMPLETED. MY CONTENTION IS THAT NEITHER
THE FACULTY OR STUDENTS GOT INTO THE MERITS OF THE ACADEMIC WORK, SO COULD
NOT MAKE AN ACCURATE OR FAIR DECISION. DR. SHIELD'S HAD ALL RELATED MATERIALS
FOR ALMOST FOUR MONTHS, SO HAD TIME TO REVIEW IT, AND IN HIS LETTER (10-29-84)
STATED THAT WHAT HE REVIEWED WAS, THAT THE COLLEGE PROCESS IN THE HANDBOOK
WAS FOLLOWED AS PRESCRIBED, THE COMMITTEE FINDINGS, AND THE TRANSCRIPT OF THE
COMMITTEE WITH MY CORRECTIONS TO THAT TRANSCRIPT OF THE COMMITTEE HEARING,
BUT THAT HE JUST MENTIONS THE RESEARCH IN HIS MEMORANDUM TO SISTER LAWRENCE
CROWLEY REGARDING THE MATTER (10/26/84) STATING HE "HAD ACCESS TO MS. LINDGREN'S
RESEARCH MATERIALS" AND THAT HE "PURSUED" THEM. THIS LEAVES A QUESTION IN MY MIND

AS THE WHETHER OR NOT DR. SHIELD'S CONSIDERED THE ACADEMIC MERITS OF THE WORK THOROUGHLY ENOUGH? DID HE LOOK AT THE REST OF THE EXAMINATION TEST TO DETERMINE THAT THERE ARE CORRECT ANSWERS TO QUESTIONS TO WHICH DR. RENZ GAVE NO CREDIT; AND OTHER ANSWERS WHICH CAN BE PROVEN 100% CORRECT BY REFERENCE TO THE TEXTBOOK FOR WHICH HE SUBTRACTED CREDIT. I EXPECT TO PROVE BY EXHIBITS THAT THERE ARE ENOUGH CORRECT ANSWERS IN THE EXAMINATION PAPER TO WARRANT AN "A" EVEN IF A REASONABLE AMOUNT IS SUBTRACTED FOR WHAT HE DID NOT LIKE IN THE SYNOPSIS. I ALSO WANT CONSIDERATION GIVEN TO MY EXPLANATIONS OF MY SYNOPSIS. I EXPLAINED TO THE FACULTY AND STUDENTS THAT ALL NECESSARY REQUIREMENTS OF A SYNOPSIS ARE PRESENT IN THE ESSAY QUESTION, AND WOULD BE RECOGNIZED BY ANYONE QUALIFIED TO GRACE RESEARCH. I EXPECTED THE MERITS OF THE STUDY OF THE 10 YEAR UPDATE ON IMPORTANT RESEARCH AFFECTING EVERY MONTANA SCHOOL CHILD TO BE GRADED AS IT HAD BEEN AT THE GRADUATE LEVEL (GRADED "A"), AND THAT WHEN IT WAS NOT THAT EACH PERSON INVOLVED IN THE REVIEW OF THE GRADE CONSIDER ALL MATERIALS BEFORE MAKING A DECISION IN THE CASE. THEY DID NOT. THE CREDABILITY OF THE GRADING OF AN ACCREDITED COLLEGE OTHERWISE STANDS AT ISSUE. FOR THESE REASONS THE MAY 12, 1984 DATE I RECEIVED THE GRADE SHOULD NOT BE THE DATE WHEN 180 DAY FILING DAY BEGAN. IT SHOULD BE OCTOBER 29, 1984 WHEN THE COLLEGE OF GREAT FALLS CONCLUDED THEIR GRADE PROTEST PROCEDURE. THE GRADE COULD HAVE CHANGED AT ANY STAGE OF THE PROCESS. THIS WAS A NECESSARY APPEAL PROCESS. IT IS A GENERAL AXIOM OF ALL LAW THAT TIME FOR APPEAL BE ALLOWED.

B. ALSO TO BE CONSIDERED IS THAT FEDERAL LAW TAKES PRECEDENCE OVER STATE LAW. I WISH TO CITE AS AN EXAMPLE OF THE NECESSITY OF TIME FOR APPEAL FROM FEDERAL RULES OF CIVIL PROCEDURE; U S CODE 1982 EDITION TITLE 29 LABOR 29108 P 113 NON COMPLIANCE WITH OBLIGATIONS INVOLVED IN LABOR DISPUTES OR FAILURE TO SETTLE BY NEGOTIATION OR ARBITRATION AS PREVENTING INJUNCTION RELIEF. NO RESTRAINING ORDER OR INJUNCTION RELIEF SHALL BE GRANTED TO ANY COMPLAINANT WHO HAS FAILED TO COMPLY WITH ANY OBLIGATION IMPOSED BY LAW WHICH IS INVOLVED IN THE LABOR DISPUTE IN QUESTION OR WHO HAS FAILED TO MAKE EVERY REASONABLE EFFORT TO SETTLE SUCH DISPUTE EITHER BY NEGOTIATION OR WITH THE AID OF ANY AVAILABLE GOVERNMENTAL MACHINERY OF MEDIATION OR VOLUNTARY ARBITRATION.

C. THE FACT THAT WE HAVE AN APPEALS BUREAU OF MONTANA IN THE DEPARTMENT OF LABOR AND INDUSTRY SPEAKS TO LEGAL AND LEGISLATIVE RECOGNITION OF THE LEGAL RIGHTS OF CITIZENS TO APPEAL, AND THERE ARE FEW RESTRAINTS ON APPEALS. I KNOW THAT THERE ARE MONTANA LEGISLATORS WHO AT THIS TIME ARE RESEARCHING THE 180 DAY FILING RESTRAINT SECTION OF THE HUMAN RIGHTS COMMISSION LAW. LEGISLATIVE CHANGE MAY BE PROPOSED.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 1-27-87

BILL NO. S.B. 152

2.

THE FOLLOWING INFORMATION IS SUBMITTED AS REQUESTED BY HEARING EXAMINER
IN HEARING ORDER OF AUGUST 7, 1986 PAGE 3 SECTION B WHICH ORDERED:

" A SHORT STATEMENT OF CONTENTIONS WHICH WILL BE THE SUBJECT OF TESTIMONY AT
HEARING AS TO WHY THE FAILURE TO AWARD HER A GRADE OF "A" IN A SOCIAL RESEARCH
METHODS CLASS CONSTITUTES AGE AND SEX DISCRIMINATION AND THAT BUT FOR HER AGE
AND SEX SUCH A GRADE WOULD HAVE BEEN GIVEN."

2. IN THE FOREGOING CONTENTION AS I EXPLAINED THE REASON FOR DELAY IN FILING,
I ALSO GAVE THE MAIN CONTENTION IN THE WHOLE APPEAL NAMELY THAT THIS IS NOT
AN ORDINARY GRADE PROTEST, THIS INVOLVES RARE AND VALUABLE RESEARCH, AND IT
IS OFFERED IN SUPPORT OF THIS CONTENTION ALSO. THIS WAS A 10 YEAR UPDATE IN
RESEARCH -- A FIRST FROM A MASTER'S DEGREE PROFESSIONAL PAPER FOR BOTH THE
COLLEGE OF GREAT FALLS AND MONTANA STATE UNIVERSITY. THAT IN ITSELF SAYS "A".
THE COLLEGE OF GREAT FALLS SHOULD BE NOTHING BUT PROUD OF IT. THIS IS I CONTEND
A GRADE ATROCITY. IT IS FOR THIS REASON PRIMARILY THAT I AN EXPERIENCED TEACHER
AND POST-GRADUATE STUDENT WITH AN MA IN EDUCATION-EMPHASIS COUNSELING HAVE APPEALED
THIS TYPE OF GRADING WHICH ADVERSELY REFLECTS ON THE PROFESSOR WHO DID SUCH GRADING
AND THE COLLEGE WHICH ACQUIESCED TO IT. BY NO MEANS DOES IT REFLECT ON THOSE OTHER
PROFESSORS OR ADMINISTRATORS, MANY OF WHOM I KNOW WHO HAD NOTHING TO DO WITH IT.
I HAVE ALWAYS BEEN AN AMBASSADOR FOR THE COLLEGE. I CONSIDER IT A GREAT ASSET
TO THE COMMUNITY. IT IS FOR THIS REASON I AM NOT SUING.

I WAS INSULTED IN DR. RENZ'S SOCIAL RESEARCH METHODS CLASS BEFORE THE CLASS,
WHEN HE MADE AN INSULTING REMARK ABOUT MY AGE. (I WAS 67 . THE COLLEGE HAS QUITE
A PROPORTION OF MATURE STUDENTS IN COMPARISON TO OTHER COLLEGES. SO HIS ATTITUDE
REFLECTED IN HIS OVERT REMARK IS A DISSERVICE TO THE COLLEGE.) WHAT AFFECTED ME
THE MOST WAS THE SHOCKED REACTION OF THE REST OF THE CLASS--ALL YOUNG UNDERGRADUATES.
THEY LOOKED AS IF THEY WANTED TO SAY SOMETHING, BUT DID NOT KNOW WHAT TO SAY.
DR. RENZ WOULD NOT HAVE EVEN KNOWN MY AGE HAD IT NOT BEEN IN MY VITA IN MY
PROFESSIONAL PAPER. I CONSIDERED IT UNPRINCIPLED. HE ALSO MADE VULGAR REMARKS
ABOUT WOMEN AND CHILDBIRTH, AND AN UNCALLED-FOR SEX SLUR REMARK ABOUT A YOUNG MALE
STUDENT WHO WAS ABSENT WHICH WERE ASPERSION INNUENDO IN CONTENT. HE EXPRESSED
STRONG FEELING ON THE WORLD BEING OVER POPULATED. SOME OTHER PEOPLE THINK SO
TOO. I GAVE A STATISTIC ON THIS IN CLASS ONE DAY THAT HE MAY NOT HAVE LIKED.
IT WAS MENTIONED IN THE TRANSCRIPT I BELIEVE; IT IS; "70% OF THE WORLD'S POPULATION
LIVES ON 1% OF THE LAND. 4/5TH OF THE EARTH IS HABITABLE. THEY SHOULD SPREAD OUT."
I AM A TEACHER . IF THIS CAUSED A RESENTMENT IN HIM WHICH RESULTED IN BIAS TOWARD
ME, REFLECTED IN THE GRADE, I KNOW IT IS UNETHICAL FOR A TEACHER TO PENALIZE ANY
STUDENT FOR HAVING OPINIONS DIFFERENT THAN HISOWN.

SINCE I AM THE AUTHOR OF AN INTERNATIONALLY-KNOWN PLAN FOR PERMANENT WORLD PEACE,
I JUST QUOTE THE TITLE OF AN ANTI-WAR PLAY IN RESPONSE, "WAR IS --IDIOT'S DELIGHT."
THAT IS ALL I SAID. I WOULD LIKE TO EMPHASIZE THAT I WAS NOT ALWAYS DISAGREEING
WITH DR. RENZ. I DID MOST OF THE RECITING, CAROL HOLSTEIN, A TEL COM STUDENT,
ALSO FREQUENTLY RECITING, BUT THE REST OF THE CLASS RARELY RECITED. I NOT ONLY
READ, BUT OUTLINED THE ENTIRE TEXT, BECAUSE I TOOK IT AS A REVIEW, THEREFORE
THE REASON A GRADUATE STUDENT-POST GRADUATE-WAS IN AN UNDERGRADUATE COURSE.
DR. RENZ NEVER FOLLOWED THE ASSIGNED TEXT OR HIS SYLLABUS. I OBJECTED TO HIS
TEACHING METHODS. I WOULD LIKE TO ASK HIM IF HE EVER TOOK TEACHING METHODS.
SOME PROFESSORS HAVE NOT. HE CERTAINLY DID NOT EMPLOY ANY GROUP PROCESS TO
GET RESPONSE OUT OF HIS STUDENTS. HE WAS INTERESTING TO LISTEN TO WHEN HE WAS
TALKING ABOUT HIS BRAIN RESEARCH; I MENTION THIS IN THE DIARY EXTRACTS. SO
SOMETIMES WHEN HE TALKED ABOUT OTHER THAN THE ASSIGNMENTS, I ENJOYED IT.
I WOULD NOT CALL THIS A "CLASH OF PERSONALITY", BUT RATHER SOME UNWARRANTED
RESENTMENT WHICH SHOWED UP IN HIS BEING VINDICTIVE IN HIS GRADING. THE QUALITY
RESEARCH ON THE COUNSELING SITUATION IN 1974 (DONE AT MSU) AND THE UPDATE DONE
AT THE COLLEGE OF GREAT FALLS (1984) SAMPLED THE 46 LARGEST HIGH SCHOOLS IN
MONTANA. DR. HAROLD ANDERSON, HEAD OF THE GRADUATE DEPARTMENT AND MY ADVISOR
CALLED IT "QUALITY WORK". IT HAS MONETARY VALUE, IT COULD GET ME A POSITION
IN ONE OF THE FIELDS OF MY INTERESTS. IT IS IN A WAY AN INSULT TO THE RESPONDENTS
TO MY QUESTIONNAIRES, THE PRINCIPALS OF THE 46 LARGEST HIGH SCHOOLS. I HAD A
HIGH RETURN OF QUESTIONNAIRES--40 OUT OF 46 IN 1974, 45 OUT OF THE 46 IN 1984.
ANYONE WHO KNOWS RESEARCH KNOWS THE WORK THAT WENT INTO IT. FOUR MONTHS OF
HARD WORK ON IT, TAKEN AT THE SAME TIME AS I TOOK THE GRADUATE COURSE, CRIMINAL
JUSTICE SYSTEM, ALSO A RESEARCH COURSE AND FOR WHICH I RECEIVED AN "A",
INSTRUCTOR, PROFESSOR PAY WALTERS. I DON'T ALWAYS OBJECT WHEN I DON'T GET AN
"A". AN EXAMPLE IS GETTING A "B" IN A COURSE (GRADUATE) TAKEN FROM PROFESSOR
JESS FARRIS ENTITLED "COUNSELING THE CHEMICALLY DEPENDENT"; MOST EVERY OTHER
STUDENT WORKED AS A CHEMICAL DEPENDENCY COUNSELOR. THEY KNEW THE PRACTICAL
APPLICATION OF WHAT WAS TAKEN MUCH BETTER THAN I WHO WAS NEW TO THE SUBJECT.
I HAVE BEEN AN HONOR ROLL STUDENT ALL MY LIFE. I AM A FORMER SOCIAL WORKER,
TEACHER, COUNSELOR. I AM THE MOTHER OF SIX GROWN CHILDREN AND HAVE BEEN
UNUSUALLY ACTIVE IN VOLUNTEER COMMUNITY SERVICE AND YOUTH WORK IN THE CITY
AND STATE. TO SUMMARIZE I CAN GET INTO THE NEAR-PERFECT EXAMINATION PAPER
POINT BY POINT AND PROVE IT TO BE AN "A". I HAVE QUESTIONS TO ASK THOSE WHO
FAILED TO GET INTO THE MERITS OF THE WORK. I HAVE ALREADY TAKEN STEPS TO GET
ACTION FROM THE RESEARCH FINDINGS. WE NEED THE SCHOOL AND HOME WORKING CLOSER
WITH IDENTIFYING PROBLEMS FOR CHILDREN AND YOUTH. THIS WAS WHAT MY RESEARCH IS

ALL ABOUT. I WILL NOT HAVE IT DISCREDITED. I AM WILLING TO OVERLOOK THE LACK OF RECOGNITION OF ITS VALUE BY SOME PROFESSORS WHO SHOULD BE MORE COGNIZANT OF MODERN TRENDS IN EDUCATION AND APPLIED RESEARCH, EVEN OF THE UNPROVOKED REMARKS, BUT I WILL NOT TOLERATE ANYTHING BUT ACCURATE, FAIR, IMPARTIAL GRADING. THIS REFLECTS ON ALL STUDENTS. THEY ARE IN A VULNERABLE POSITION TO FIGHT BACK. ACADEMIC FREEDOM FOR STUDENTS IS AS IMPORTANT AS ACADEMIC FREEDOM FOR PROFESSORS. THE COLLEGE HEARING WAS A PRETENSE WHEN THEY DID NOT GET INTO THE MERITS OF THE WORK. THERE IS LACK OF DUE PROCESS WHEN ONE SIDE ONLY IS CONSIDERED.

I HAVE REPORTED TO THE HUMAN RIGHTS COMMISSION THAT IN THE BACKGROUND IS AN ONGOING INVESTIGATION OF CRIMINAL SUBVERSIVE ACTIVITIES REQUIRING EXPERTISE IN INVESTIGATIVE METHODS. I DO NOT THINK THERE IS A RELATIONSHIP IN THIS GRADE SITUATION BUT THERE COULD BE. I EXPECT IT TO BE DEALT WITH SEPARATELY. THIS HEARING ORDER DEFINES WHAT WILL BE CONSIDERED, BUT SHOULD ANYTHING SURFACE IT WILL BE REPORTED TO PROPER AUTHORITIES.

I ASK THAT IMPARTIAL, QUALIFIED EDUCATORS RE-GRADE THIS WORK. THERE WILL BE NO END TO THE APPEALS UNTIL I HAVE MY LEGAL AND HUMAN RIGHTS PROTECTED BY THE LAW.

C. DOCUMENTS

THE FOLLOWING IS SUBMITTED AS REQUESTED BY HEARING EXAMINER:

"A LIST OF ALL DOCUMENTS, PAPERS AND OTHER TANGIBLE EVIDENCE WHICH CHARGING PARTY INTENDS TO OFFER AT HEARING, WITH A SHORT DESCRIPTION OF THE ITEM. COPIES OF ALL SUCH EVIDENCE SHALL BE GIVEN TO THE RESPONDENT THROUGH ITS PRESIDENT NO LATER THAN TEN DAYS PRIOR TO HEARING."

NOTE: I INQUIRED OF THE HUMAN RIGHTS COMMISSION OFFICE WHETHER I HAD TO SUBMIT COPIES OF THEIR CORRESPONDENCE WITH ME, AND OF THE FORMS THEY SENT ME TO FILL OUT. I WAS TOLD I DID NOT HAVE TO DO THIS, AS THEY WERE ALREADY IN THE RECORD. I ALSO ASKED IF I HAD TO FURNISH A COPY OF MY ORIGINAL RESEARCH MSU PROFESSIONAL PAPER AS I HAD ONE COPY ONLY; I WAS TOLD I DID NOT HAVE TO. I HAVE ASKED THE GREAT FALLS PUBLIC LIBRARY TO SECURE A COPY ON LOAN FROM THE MSU LIBRARY.

LIST OF DOCUMENTS ETC.

1. PROFESSIONAL PAPER - SCHOOL FAMILY COUNSELING IN THE HOME --RESEARCH DONE AT MONTANA STATE UNIVERSITY 1974 GRADED "A" -REQUIREMENT FOR MASTER'S DEGREE EDUCATION-EMPHASIS COUNSELING
2. RESEARCH PROJECT DONE AT COLLEGE OF GREAT FALLS 1984 - 10 YEAR UPDATE OF SAME RESEARCH DONE IN 1974 AT MSU. DONE SOCIAL RESEARCH METHODS CLASS SPRING SEMESTER 1984, INSTRUCTOR DR. PAUL RENZ
3. THE FINAL EXAMINATION PAPER - IT WAS DIVIDED INTO TWO SECTIONS (SHORT ANSWER AND ESSAY) THAT WAS EQUALLY WEIGHTED IN SCORING VALUE. THE POINT COUNT FOR EACH QUESTION APPEARS IN BRACKETS AFTER THE NUMBER. IN MY SCORING CHOICE THIS EXAM COUNTED 25% (HAD TO BE THIS PERCENTAGE FOR ALL STUDENTS) THE RESEARCH PROJECT 75%. THERE WERE OTHER PERCENTAGE CHOICES. I FILLED THE CHOICE FORM IN LATE, JUST TO INDICATE WHAT PERCENTAGE WEIGHT I WOULD GIVE THE OTHER CHOICES I.E. ATTENDANCE 10%, PROFESSOR EVALUATION 10%, MYOWN EVALUATION 10% ETC. I DID NOT SELECT EVALUATION OF OTHER STUDENTS AS I DID NOT KNOW THEY KNEW ME. I INDICATED AT THE BOTTOM THAT I WANTED THE RESEARCH TO COUNT 75%, EXAM 25%. I ALSO DISTINCTLY TOLD DR. RENZ THAT I WANTED THIS CHOICE, AND HE SAID THAT IS WHAT YOU WOULD WANT. DR. RENZ

TESTIFIED THAT THE EXAM PAPER WAS ALL "A" BUT WAS NOT SYNOPSISIZED. I TESTIFIED THAT ALL REQUIREMENTS FOR A SYNOPSIS WERE CONTAINED IN THE ESSAY QUESTION WITH STATISTICS NOT LISTED AS IS USUAL IN SYNOPSIS.

4. TEXTBOOK - ABRAHAMSON, MARK, SOCIAL RESEARCH METHODS, PRENTICE-HALL, INC., ENGLEWOOD CLIFFS, N. J. 07632, 1933 - WILL BE USED AS EXHIBIT. I CAN SEND IF REQUIRED. COLLEGE HAS A COPY
5. OUTLINE OF TEXTBOOK - THIS REPRESENTED A LOT OF WORK. WILL BE USED AS EXHIBIT
- ✓ 6. ABSTRACT - OPTIONAL, CERTAINLY A SYNOPSIS. HANDED IN WITH RESEARCH
- ✓ 7. QUESTIONNAIRE, COVER LETTER, QUESTIONNAIRE RESULTS MAILED TO 46 LARGEST MONTANA HIGH SCHOOLS (SAMPLE WAS ATHLETICALLY DESIGNATED AA AND A SCHOOLS)
RESULTS MAILED 9-1-84
8. NOTES TAKEN TO COMMITTEE HEARING-FROM WHICH I SPOKE.
9. HOME SCHOOL COORDINATOR HANDBOOK - RELATING TO INDIAN CHILDREN EXCLUSIVELY MY RESEARCH INCLUDES AVAILABLE DATA ON THIS PROGRAM. HANDBOOK PREPARED BY OFFICE OF PUBLIC INSTRUCTION. WILL BE USED AS EXHIBIT
10. TRANSCRIPT OF COLLEGE OF GREAT FALLS HEARING - STUDENT RIGHTS AND RESPONSIBILITIES COMMITTEE - 3 FACULTY MEMBERS AND 3 STUDENT MEMBERS, SISTER LAWRENCE CROWLEY, CHAIRMAN. FACULTY ELECTED BY OTHER FACULTY MEMBERS TO BE ON THIS COMMITTEE. I FOUND ERRORS NOTED BY ME, THE WORSE OF WHICH WAS HAVING ME SAY, "HE CAN CUSS IF HE WANTS TO." WHICH I NEVER SAID AND REGARD AS PREJUDICIAL TO ME. DEAN OF STUDENTS, FATHER SIKORA, TOLD ME HE ALONE LISTENED TO THE TAPES AND HAD HIS SECRETARY TYPE THEM UP. I PAID FOR A TRANSCRIPT, NOMINAL FEE. WILL BE USED AS EXHIBIT. MY COPY NOT FOUND IN MATERIALS RETURNED.
11. EXTRACTS FROM MY DIARY WHICH HAVE NOTATIONS ON HAPPENINGS IN CLASSES I TOOK SPRING SEMESTER, SOCIAL RESEARCH METHODS AND CRIMINAL JUSTICE SYSTEM. DATES CLASS MEETING DAYS BETWEEN JANUARY 9, 1984 AND MAY 2, 1984 WHEN FINAL EXAM IN SOCIAL RESEARCH METHODS HANDED IN. THESE ARE HANDWRITTEN, BECAUSE OF LACK OF TIME TO TYPE THEM. THESE ARE SUBMITTED WITH THE STIPULATION THAT THE ACTUAL PAGE OF THE DIARY FROM WHICH THE ENTRY CAME MAY BE VIEWED BY THE HEARING OFFICER AND RESPONDENTS, BUT THE ENTIRE DIARY WILL NOT BE TURNED IN AS AN EXHIBIT FOR THE OBVIOUS REASON THAT IT WOULD CONSTITUTE INVASION OF PRIVACY INCLUDING THAT OF OTHER PEOPLE IN NO WAY ASSOCIATED WITH THE CASE. MY QUESTION INQUIRING ON USE OF THESE EXTRACTS TO SHOW PROGRESSION OF CLASS DID NOT REACH THE HEARING EXAMINER IN TIME FOR HIS DECISION BEFORE HE LEFT ON VACATION, SO IS NOT AVAILABLE AT THE TIME OF THIS WRITING. IF I AM TO BE DENIED THE NAMES OF CLASS MEMBERS AS WITNESSES, WHICH WAS DONE BY THE REGISTRAR AT THE COLLEGE OF GREAT FALLS ON 8/29/86, THE DIARY WILL BE NEEDED FOR TANGIBLE EVIDENCE. THE REASON GIVEN BY THE REGISTRAR WAS THAT THIS WOULD BE AN INVASION OF PRIVACY. SHE DETERMINED THIS AFTER CONSULTATION WITH SOMEONE ELSE AT THE COLLEGE.
12. CORRESPONDENCE BETWEEN ME THE RESPONDENTS AND ALSO THE HUMAN RIGHTS COMMISSION WILL BE ON HAND AT THE DIARY TO BE ENTERED AS EXHIBITS IF NECESSARY, BUT BOTH SHOULD HAVE COPIES AND I WAS TOLD BY HUMAN RIGHTS STAFF MEMBER ON THE PHONE THAT THEY DID NOT NEED TO BE INCLUDED. MEMO NOTES OF CONFERENCES WITH COLLEGE OF GREAT FALLS CONCERNED PROFESSORS OR SECRETARIES TO THEM ARE ALSO AVAILABLE TO BE USED AS VERIFICATION. AVAILABLE AS EXHIBITS - *CHART AND NOTATION ON BACK OF EXAMINATION PAPER*
13. THE EXAMINATION PAPER OF SOCIAL RESEARCH METHODS CLASS SOCIOLOGY 312 DR. PAUL RENZ INSTRUCTOR WHO GAVE CLASS TAKE-HOME EXAM APRIL 27, 1984 AND WAS RETURNED TO HIM BY ME ON MAY 2, 1984. NOTATION ATTACHED SHOWING DISCREPANCIES IN DR. RENZ'S GRADING MENTIONED IN MY CONTENTIONS. A CHART OF THIS MAY BE PREPARED AS AN EXHIBIT TO BE USED FOR EXPLANATIONS AT THE 9/19/86 HEARING. I HAVE AVAILABLE A FLIP CHART OF THE RESEARCH QUESTIONNAIRE WITH FINDINGS PREPARED FOR A PRESENTATION SPEECH I MADE TO THE GREAT FALLS AREA COUNSELOR'S ASSOCIATION FALL OF 1984. NOTE: NOTICE THE NOTATION ON THE BACK OF THE EXAMINATION PAPER WHICH I PERSONALLY RE-GRADDED AND INITIAL MY CORRECTION OF ERRORS, BEING FULLY QUALIFIED TO GRADE SOCIAL RESEARCH HAVING MY MASTER'S DEGREE IN EDUCATION-EMPHASIS COUNSELING (MONTANA STATE UNIVERSITY 1977) AND HAVING HAD ALL REQUIRED COURSE TO MEET PROFESSIONAL STANDARDS. ON THIS NOTATION I ASK THAT A COMMITTEE OF IMPARTIAL PROFESSORS QUALIFIED TO EVALUATE MY GRADE BE SET UP TO RE-EVALUATE THIS EXAMINATION PAPER AS EVIDENCE THAT THIS EXAMINATION PAPER SHOULD HAVE BEEN GRADDED AN "A" RATHER THAN A "B".
14. SECOND SYNOPSIS HANDED IN ON OR ABOUT MARCH 21, 1986 WITH LETTERS TO DR. CHIELDS AND DR. RENZ AS A CONCILIATORY MOVE TO RESOLVE THIS. ALL OF THIS INFORMATION MAY BE FOUND IN THE ORIGINAL SYNOPSIS IN THE ESSAY QUESTION OF THE EXAMINATION PAPER WITH THE EXCEPTION OF THE ACTUAL

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 1-27-87

BILL NO. S.B. 152

DOCUMENTS - (CONTINUED)

STATISTICS OF THE RESEARCH STUDY WHICH ARE NOT COMMONLY FOUND IN A SYNOPSIS BUT IN THE BODY OF THE STUDY. THESE STATISTICS WERE IN THE BODY OF MY RESEARCH STUDY WHICH WAS PART OF THE GRADE. A COMPREHENSIVE SYNOPSIS OF THE 10 YEAR UPDATE OF MY RESEARCH WAS IN THE ESSAY QUESTION PLUS A COMPLETE LISTING OF SOCIAL RESEARCH METHODS RELATING IT IN ALL DETAIL TO THE STUDY AND THE COURSE. THIS IS "A" WORK OF GRADUATE LEVEL QUALITY. THE ESSAY QUESTION SHOULD HAVE BEEN GRADED AN "A".

D. WITNESSES

THE FOLLOWING IS SUBMITTED AS REQUESTED BY HEARING EXAMINER

" A LIST OF ALL INDIVIDUALS, INCLUDING THE CHARGING PARTY, WHO THE CHARGING PARTY INTENDS TO CALL AS WITNESSES AT THE TIME OF THE HEARING, ALONG WITH FULL NAME, ADDRESS AND TELEPHONE NUMBER OF EACH, AND A SHORT DESCRIPTION OF THE EXPECTED TESTIMONY OF EACH WITNESS."

WITNESSES AT TIME OF FILING OF THIS INFORMATION ORDER BY HEARING EXAMINER, NOTING UNDER CONTENTION AT THIS TIME IS WHETHER I WILL BE ABLE TO OBTAIN THE NAMES OF OTHER MEMBERS OF THE SOCIAL RESEARCH METHODS CLASS. I HAVE WRITTEN TO REQUEST SUBPOENA FORMS SIGNED BY THE HEARING EXAMINER TO OBTAIN THESE. I WOULD BE AT A LEGAL DISADVANTAGE IF THE RESPONDENTS IN THIS CASE HAVE THESE NAMES AND I DO NOT.

LIST OF WITNESSES:

EXPECTED TESTIMONY

- | | |
|---|---|
| 1. PROFESSOR RAY WALTERS
COLLEGE OF GREAT FALLS
1301-20TH ST. SOUTH
GREAT FALLS, MONTANA
59405-4996
761-8210 | SCHOLARSHIP - AS INSTRUCTOR IN CRIMINAL JUSTICE SYSTEMS GRADUATE COURSE TAKEN SAME QUARTER AS SOCIAL RESEARCH METHODS |
| ✓ 2. PROFESSOR JESS FARRIS
COLLEGE OF GREAT FALLS
1301-20TH ST. SOUTH
GREAT FALLS, MONTANA
761-8210 | SCHOLARSHIP- INSTRUCTOR IN GRADUATE COURSE "COUNSELING THE CHEMICALLY DEPENDENT" TAKEN SPRING SEMESTER 1985 - PSYCHOLOGIST |
| • ✓ 3. DR. HAROLD ANDERSON
COLLEGE OF GREAT FALLS
1301-20TH ST. SOUTH
GREAT FALLS, MONTANA | ACADEMIC ADVISOR, DIRECTOR GRADUATE SCHOOL, FORMER INSTRUCTOR. SCHOLARSHIP, DISCUSSED THIS WHOLE SITUATION WITH HIM. TESTIMONY ON WHAT HE KNEW OF WHOLE PROCESS OF GRADE PROCESS PROCEEDINGS. |
| ✓ 4. PROFESSOR ANTHONY GREGORY
COLLEGE OF GREAT FALLS
1301-20TH ST. SOUTH
GREAT FALLS, MONTANA
761-8210 | SCHOLARSHIP - FORMER INSTRUCTOR IN GRADUATE SOCIOLOGY CLASS. SOMEONE I HAVE KNOWN FOR MANY YEARS, HAVE GIVEN HIM AS A REFERENCE IN JOB APPLICATION. |
| ✓ 5. FATHER FRANCIS MCINNIS
COLLEGE OF GREAT FALLS
1301-20TH ST. SOUTH
GREAT FALLS, MONTANA
761-8210 | SCIENCE PROFESSOR, FORMER DIRECTOR OF GRADUATE SCHOOL WHEN I DID MY GRADUATE WORK--IN COOPERATIVE MA PROGRAM OF COLLEGE OF GREAT FALLS AND MONTANA STATE UNIVERSITY. SCHOLARSHIP-CHARACTER |
| ✓ 6. PROFESSOR PAT LEE
COLLEGE OF GREAT FALLS
1301-20TH ST. SOUTH
GREAT FALLS, MONTANA
761-8210 | LITERATURE PROFESSOR. SOMEONE I HAVE KNOWN FOR YEARS. IN FACULTY LOUNGE THE DAY I TALKED WITH DR. ANDERSON AFTER CONFERENCE WITH DR. RENZ IN EFFORT TO RESOLVE CASE WITHOUT FURTHER LITIGATION |
| 7. SISTER MARGARET LA FORTE
LIBRARIAN
X COLUMBUS HOSPITAL
500 15TH AVE. SOUTH
GREAT FALLS, MONTANA
727-3333 | FORMER FACULTY MEMBER AT COLLEGE OF GREAT FALLS WHOM I HAVE KNOWN FOR A NUMBER OF YEARS. WHO HAS SEEN ME DOING RESEARCH IN HER LIBRARY. WHOM I TOLD OF MY DISSATISFACTION WITH THE GRADE |
| 8. SISTER MARGARET O'CONNOR
REGISTRAR-COLLEGE OF GREAT FALLS
ADDRESS SAME AS ABOVE | I HAVE ALSO KNOWN SISTER MARGARET FOR YEARS. SHE COULD VERIFY MY CREDENTIALS. SHE COULD ALSO EXPLAIN THE POLICY GIVEN HER NOT TO GIVE OUT THE NAMES OF MY FELLOW STUDENT'S IN THE SOCIAL RESEARCH METHODS CLASS |
| 9. SISTER LAWRENCE CROWLEY
MODERATOR AT CGF HEARING
COLLEGE OF GREAT FALLS
ADDRESS ABOVE | SISTER LAWRENCE WAS MODERATOR AT THE CGF HEARING. SHE PRESIDED AFTER I LEFT. I WOULD QUESTION HER ON WHETHER HER REMARKS BEFORE THE VOTING WERE ACCURATELY RECORDED IN THE TYPED TRANSCRIPT OF THE RECORDED PROCEEDINGS OF THE CGF HEARING. I HAVE OBJECTED TO THEIR BEING PARTIAL TO THE |

LIST OF WITNESSESEXPECTED TESTIMONY

✓ 10. DR. WILLIAM SHIELDS,
PRESIDENT,
COLLEGE OF GREAT FALLS
1301-20TH ST. SOUTH
761-6210

DR. SHIELDS HAS BEEN IN IN THE WHOLE
PROCESS, AND HE HAVE EXCHANGED CORRESPONDENCE.
HIS TESTIMONY MIGHT BE NEEDED ON
MANY POINTS WHICH WILL BE DISCUSSED.

11. LEE ZADICK, SECRETARY
TO DR. SHIELDS
COLLEGE OF GREAT FALLS
SAME ADDRESS AS ABOVE

THERE WERE TIMES WHEN I HAD TO LEAVE
MESSAGE WITH HER FOR DR. SHIELDS;
ALSO I LEFT THE MATERIALS FOR HIM TO
READ WITH HER. I HAVE KNOWN HER FOR YEARS.

• 12. DEAN OF STUDENTS CGF
FATHER JAMES SIKORA
COLLEGE OF GREAT FALLS
SAME ADDRESS AS ABOVE

DEAN SIKORA WAS ALSO IN ON THE WHOLE
COLLEGE GRADUATE PROCESS, SO COULD VERIFY
MANY POINTS.

X 13. PAUL SPANO
212 33 NORTH
GREAT FALLS, MONTANA
727-5639

IN MORE THAN ONE GRADUATE CLASS WITH ME
IN HUMAN SERVICES/MA COURSES COULD ATTEST
TO KIND OF STUDENT I AM

✓ 14. CHAR SCHRAM
DIRECTOR RUNAWAY ATTENTION
HOME
618 3RD AVE. NORTH
GREAT FALLS, MONTANA
452-7672

PSYCHOLOGIST, PRESIDENT OF GREAT FALLS
AREA COUNSELOR'S ASSOCIATION WHILE I
SERVED AS VICE-PRESIDENT OF THAT
PROFESSIONAL ORGANIZATION. SPE COULD
TESTIFY TO MY HAVING MADE A REPORT OF
MY 10 YEAR UPDATE OF RESEARCH AT THAT
GROUP AND OF THE FAVORABLE RECEPTION BY
THE PROFESSIONALS IN THE FIELD.

✓ 15. HELEN O'CONNELL
703 4TH AVE. S. W.
GREAT FALLS, MONTANA
453-5673

LEGISLATOR FOR MY DISTRICT WHO COULD
TESTIFY ON LEGISLATION RELATED TO A
UNDER WHICH THE HUMAN RIGHTS COMMISSION
OPERATES

✓ 16. FATHER JAY PETERSON
PASTOR ST. JOSEPH'S CHURCH
420 2ND AVE. S. W.
GREAT FALLS, MONTANA
453-6553

PASTOR OF MY CHURCH WHO KNOWS ME WELL,
AND WHOM I HAVE MENTIONED THIS CASE TO.

✓ 17. GEORGE LINDGREN
400 1ST AVE. N. W.
GREAT FALLS, MONTANA
761-3293

HUSBAND, WHO IS VERY MUCH AWARE OF THE
TIME AND EFFORT I PUT INTO MY CLASSES,
AND PREPARATION OF THIS REPORT. HE
KNOWS THE STRESS THIS HAS CREATED FOR ME.

✓ 18. RICHARD LINDGREN
624 5 AVE. N. W. #716
GREAT FALLS, MONTANA
761-0526

SON, WHO COULD ALSO BE ABLE TO TESTIFY TO
THE HOURS AND MONTHS OF WORK WHICH WENT
INTO THIS CLASS, AND OF THE DURESS CAUSED
BY THE MISGRADING OF THE WORK, THE HEARINGS ETC.

19. THE 3 FACULTY MEMBERS OF
COLLEGE OF GREAT FALLS
WHO SERVED ON THE STUDENT
FACULTY COMMITTEE:

I SHALL LIST THESE AS HOSTILE WITNESSES
BECAUSE THEY MADE A DECISION AGAINST ME
WITHOUT GETTING INTO THE MERITS OF THE WORK

- ✓ PROFESSOR HUGHES-BRIANT
- ✓ PROFESSOR RICHARD SCHROYEN
- ✓ PROFESSOR CORNELIUS FOLEY

ADDRESSES ABOVE

STUDENTS ON THIS COMMITTEE

TONY FITZPATRICK
MARIA CHRISTIAENS
RICHARD LEWIS

I WOULD LIKEWILE LIST THESE THREE STUDENTS
HOSTILE WITNESSES AS THEY MADE A DECISION
AGAINST ME WITHOUT FAMILIARIZING THEMSELVES
WITH THE ACADEMIC WORTH OF THE RESEARCH OR
EXAMINATION BEFORE VOTING.

3 COLLEGE OF GREAT FALLS AS
OF THIS DATE ADDRESSES REFUSED BY CGF

20. ANY STUDENTS WHO TOOK THIS CLASS WITH ME. PRESENT SITUATION THE COLLEGE
OF GREAT FALLS REFUSES TO RELEASE THEIR NAMES TO ME BASING THEIR DECISION ON
THE FACT THAT THEY CONSIDER IT AN INVASION OF THEIR PRIVACY. I HAVE PROTESTED.
I ASK IN ENCLOSED LETTER THAT SUBPOENA FORMS SIGNED BY THE HEARING EXAMINER BE
SENT TO ME SO I MAY OBTAIN THESE NAMES. THIS SITUATION PUTS ME AT THE DISADVANTAGE
OF NOT HAVING WITNESSES TO THE KIND OF A STUDENT I WAS, AND THE DISCRIMINATORY
ACTS COMMITTED BY DR. RENZ IN THE CLASSROOM WHICH ARE THE BASIS OF MY CONTENTIONS.

LIST OF WITNESSES (CONTINUED)

21. DR. PAUL RENZ
COLLEGE OF GREAT FALLS
1301 - 20TH ST. SOUTH
761-8210

22. GERTRUDE R. LINDGREN
400 1ST AVE. N. W.
GREAT FALLS, MONTANA
761-8293

EXPECTED TESTIMONY

INSTRUCTOR IN CLASS IN PROTESTED GRADE, SOCIAL RESEARCH METHODS, SOCIOLOGY 312 SPRING SEMESTER 1984 - HOSTILE WITNESS IT IS EXPECTED THAT HE WILL CONTINUE TO SAY THE RESEARCH AND EXAMINATION ARE ALL "A" ACADEMIC WORK, BUT THAT HE LOWERED THE UNDERGRADUATE GRADE TO A "B" BECAUSE ACCORDING TO HIM I DID "NOT SYNOPSISIZE" MY OWN RESEARCH PROFESSIONAL PAPER AND 10 YEAR UPDATE OF THE RESEARCH DONE RESPECTIVELY AT MONTANA STATE UNIVERSITY (1974) AND COLLEGE OF GREAT FALLS (1984) IN THE ESSAY QUESTION OF THE EXAMINATION PAPER IF HE REPEATS HIS ANSWER TO MY QUESTION TO HIM AT THE CGF STUDENT-FACULTY HEARING 6/84, IT IS EXPECTED HE WILL SAY THAT, "HE FOUND MATURE STUDENTS TO RECEIVE BETTER GRACES THAN THE YOUNGER STUDENTS."

THE STUDENT WHO IS APPEALING THE GRADE GIVEN BY DR. RENZ TO HER IN THE UNDERGRADUATE COURSE SOCIAL RESEARCH METHODS, SOCIOLOGY 312, AND IS APPEALING FROM THE DECISION OF THE STUDENT-FACULTY COMMITTEE AND DECISION OF PRESIDENT WILLIAM SHIELDS CONCURRING IN THEIR DECISION. WHO IS ALSO APPEALING THIS CASE TO THE HUMAN RIGHTS COMMISSION AND ASKING FOR A REVIEW OF THE ACADEMIC MERITS OF HER RESEARCH WORK - 10 YEAR UPDATE RESEARCH STUDY - BY AN IMPARTIAL COMMITTEE OF PROFESSORS QUALIFIED TO GRADE SOCIAL RESEARCH. SHE IS THE CHARGING PARTY AND WILL TESTIFY TO DISPARAGING REMARKS MADE BY THE PROFESSOR, DR. RENZ, ABOUT HER AGE, AND THE INSULTING REMARKS HE MADE IN CLASS RELATING TO WOMEN AND CHILD BIRTH ALL OF WHICH COULD HAVE HAD A BEARING ON THE OBVIOUS INCORRECT GRADING OF MY WORK IN THE COURSE. I SHALL TESTIFY ON ALL OF THE INFORMATION CONTAINED IN MY CONTENTIONS PREPARED FOR THE HEARING OFFICER, JIM ZION, AS ORDERED IN HIS HEARING EXAMINER ORDER OF AUGUST 7, 1986

PREPARED AND SUBMITTED BY:

Gertrude R. Lindgren
GERTRUDE R. LINDGREN,
CHARGING PARTY
400 1ST AVE. N. W.
GREAT FALLS, MONTANA

SEPTEMBER 5, 1986

BEFORE THE HUMAN RIGHTS COMMISSION

OF THE STATE OF MONTANA

* * * * *

GERTRUDE LINDGREN,)
Charging Party,) Case No. SAEd85-2711
vs.)
COLLEGE OF GREAT FALLS,) PROPOSED ORDER
Respondent.)

* * * * *

This contested case, arising out of an alleged discriminatory incident based upon the classifications of sex and age and involving an enrolled college student in terms, conditions or privileges of an educational institution, came on for hearing at the College of Great Falls at 10:00 a.m. on September 18, 1986. The charging party, Gertrude Lindgren, personally appeared and represented herself during the hearing. The respondent, the College of Great Falls, appeared through its President, Dr. William A. Shields, who represented it.

PROCEDURAL HISTORY

This case involves the contention of the charging party that a grade of "B" given to her in a course on social research methods at the college should have been an "A" instead, and that she received the lower grade due to her age or sex. The original incident arose on May 12, 1984 when she received her report card. Proceedings before the Commission were initiated by means of a letter of complaint, filed with the Human Rights Division on January 14, 1985. A perfected complaint was filed on April 23, 1985. On March 5, 1986 the Human Rights Division made a finding of a lack of reasonable cause based upon the failure of the charging party to file her complaint within the 180 day statutory filing period. On March 10, 1985 the charging party contested the lack of reasonable cause finding, and following the determination

1 of the Division Administrator to sustain the previous finding, the
2 charging party requested a contested case hearing on April 29,
3 1986.

4 This contested case was certified for hearing and notice of
5 certification was made on July 8, 1986. The undersigned hearing
6 examiner was appointed on July 9, 1986.

7 The date of his appointment the hearing examiner sent a
8 memorandum to the parties to advise them of certain matters that
9 could, in the minds of the parties, create a potential conflict of
10 interest and to ask whether they wished to waive the right to
11 counsel and proceed by means of an informal hearing. The hearing
12 examiner disclosed that his former wife (the former Rosemary
13 Blanchard Zion) had previously acted as an attorney for Gertrude
14 Lindgren as well as previously serving as a member of the faculty
15 of the College of Great Falls. On July 15, 1986 the charging
16 party indicated she found no conflict of interest with the
17 appointed hearing examiner, waived counsel and indicated she
18 wished to proceed by means of an informal hearing. On July 22,
19 1986, President William A. Shields of the college also accepted
20 the appointment of the hearing examiner, waived counsel and agreed
21 to proceed informally.

22 On August 7, 1986 the hearing examiner entered a hearing
23 order fixing the issues to be heard and requiring the parties to
24 make written submissions of their contentions. The hearing
25 examiner had previously excused the respondent from filing a
26 formal answer, and the order required written contentions from the
27 parties in order to enter a hearing order outlining the relevant
28 issues for the hearing. The charging party's contentions were
29 filed on September 8, 1986, and those of the respondent were filed
30 on September 10, 1986. A hearing order based upon the written
31 submissions of the parties was entered on September 12, 1986.
32

1 When the hearing was opened on September 18, 1986 the hearing
2 examiner conducted a prehearing conference with the parties. He
3 advised them that a hearing had been set on both the issues of the
4 timeliness of the filing of the complaint as to the provision of
5 §49-2-501(2) that "Any complaint not filed within the time set
6 forth herein may not be considered by the commission," and as to
7 the merits. A hearing had been set on both issues because of the
8 potential that an immediate decision might not be reached on the
9 question of timeliness, depending upon the testimony received. In
10 a letter dated September 2, 1986 Dr. Shields took the position
11 that the question of timeliness should be resolved prior to
12 proceeding to a hearing on the merits, but prior to hearing he
13 advised the hearing examiner the respondent would be prepared to
14 proceed on both questions. During the prehearing conference the
15 hearing examiner ruled that should the evidence on timeliness, and
16 particularly whether there should be an equitable tolling of the
17 statutory period, be such as to make an immediate ruling at the
18 close of evidence on the question, the hearing could be terminated
19 at that point.

20
21 Following two hours and fifteen minutes of testimony on the
22 question of timeliness the hearing examiner ruled that the
23 evidence was clear that the complaint had not been timely filed
24 and there were no equitable considerations to excuse that fact,
25 and terminated the hearing on the ground it could not be
26 considered by the commission under the statute.

27 PRELIMINARY RULINGS

28 There were two procedural rulings entered during the course
29 of the hearing prior to its closing.

30 First, an individual who identified himself as Peter Johnson,
31 a reporter for the Great Falls Tribune, asked whether he would be
32 allowed to be present during the hearing. The hearing examiner
indicated that the Montana Open Meeting Act applied to the hearing

1 and asked both parties whether they had any objections or
2 information indicating that considerations of individual privacy
3 outweighed the right of the press to be present. Dr. Shields
4 objected that he understood the hearing was to be "informal" and
5 felt that there should be no press coverage of it. Mrs. Lindgren
6 indicated she wished the reporter to be present. The hearing
7 examiner ruled that since there was no showing of important
8 privacy considerations the Open Meeting Act required that the
9 hearing be open to press coverage.

10
11 Second, the hearing examiner advised the parties that they
12 had a right to move that only the parties (with Dr. Shields as the
13 representative of the College of Great Falls) and the witness
14 giving testimony be present in the hearing room and that all other
15 witnesses be excluded. Dr. Shields indicated he wished to use
16 this procedure, and Mrs. Lindgren asked that academic witnesses be
17 present during testimony regarding the grading of her examination
18 paper. The hearing examiner ordered that only the parties and
19 witnesses giving their testimony would be allowed to be present,
20 and all other witnesses would be excluded from the hearing room.

21 Upon the testimony, exhibits and other evidence received upon
22 the question of the timeliness of the filing of a complaint under
23 §49-2-501(2), MCA the following findings of fact are made:

24 FINDINGS OF FACT

- 25 1. The charging party was, as of May 12, 1984, 68 years of
26 age.
- 27 2. The charging party is of the female sex.
- 28 3. The respondent, College of Great Falls, is a private
29 institution and a college, which offers terms, conditions or
30 privileges to enrolled students.
- 31 4. As of the Spring, 1984 academic semester at the College
32 of Great Falls the charging party was enrolled as a student,

1 taking courses in social research methods (an undergraduate
2 course) and criminal justice systems (a graduate course).

3
4 5. This action arises out of a grade given by the instructor
5 of the course in social research methods at the College of Great
6 Falls, which is situated in Great Falls, Cascade County, Montana.

7
8 6. On May 12, 1984 the charging party received her report
9 card in the mail, and on that date she first learned that she had
10 received a "B" grade in her social research methods course rather
11 than an "A," which she expected.

12 7. In January of 1983 the College of Great Falls adopted its
13 Student Rights and Responsibilities Handbook, which contains a
14 "Procedure for Student Appeal in Academic Matters" (pages 6-8).

15 8. The academic appeal procedures provide for a formal
16 appeal "for a reconsideration of a teacher's procedures or
17 evaluation" in which a student may have a grade reconsidered
18 through the process of a meeting with the teacher following the
19 filing of a formal complaint, discussions with "the appropriate
20 division (i.e. academic department) head" and the Dean of the
21 College.

22 9. If a student is still dissatisfied following these
23 procedures, he or she may request a hearing before the Student
24 Rights and Responsibilities Committee.

25 10. The committee is composed of three faculty members (one
26 from each of the three academic divisions of the college), three
27 student members appointed by the Student Senate and a non-voting
28 chairman appointed by the president of the college.

29 11. The charging party elected to undertake each of the
30 steps to appeal the teacher's "evaluation" by way of her grade,
31 and that process was followed from May 15, 1984, when the charging
32 party met with the Dean of Student Services, until July 10, 1984,
when the decision of the Student Rights and Responsibilities

Committee transmitted a decision adverse to the charging party to the Dean of Student Services.

13. On the face of the policy with respect to student appeals in academic matters the final stage of the appeal process for disputes on grading is a hearing before the Student Rights and Responsibilities Committee.

This was the first case following the adoption of the student handbook in which a student appeal reached the committee, and the charging party was advised of her right to further appeal to the president of the college under the rules for "Judiciary Procedures in Non Academic Matters" (pages 9-10 of the Handbook).

14. The pertinent provision of the non-academic appeal procedure is that: "The decision of the Dean is final unless the student has elected to appear before the Student's Rights and Responsibilities Committee. In this case, the decision of the committee is final, subject only to the student's right of appeal to the President of the college." (Handbook, p. 10).

15. On July 13, 1984 the charging party made her appeal to the president of the college, who rendered a report denying further relief on October 22, 1984.

16. The charging party testified she did not receive the president's decision in the form of a letter until October 29th or 30th, 1984.

17. Accepting the date of October 30, 1984 as the date of termination of the academic appeals process for the purposes of argument only, the charging party had until Thursday, November 8, 1984 (180 days next following May 12, 1984) in which to file her complaint, and the charging party had eight working days (i.e. not counting Saturdays and Sundays but including October 30th) in which to contact the Human Rights Commission with respect to the filing of a complaint.

18. Adopting July 10, 1984 as the date of final termination of the appeals process, the charging party had approximately four months in which to act.

19. The first contact the charging party had with the Human Rights Commission or the Human Rights Division of the Department of Labor and Industry was by means of a letter which was received by the Division on January 14, 1985, approximately 247 days after she received her report card.

20. The charging party's perfected appeal was filed on April 23, 1985, approximately 346 days following the receipt of her grade.

21. It was the testimony of the charging party that on May 12, 1984, when she received her report card, she "believed something was wrong," had "heard some things" about the professor's grading and felt that she had been discriminated against.

22. The pertinent date of the alleged discriminatory practice is May 12, 1984, when the charging party had information upon which to act.

23. The charging party testified that she relied upon the representations of Fr. James Sikora, Dean of Student Services, that the charging party's grade could have been changed at any point in the appeal process, and Fr. Sikora admits he could have or did tell the charging party "the matter could be settled at any point" and leave the impression the grade could have been changed at any time.

24. Despite any possible reliance upon any representation made by any agent of the College of Great Falls, the academic appeal process was completely finished by October 29th or 30th of 1984 and the charging party could have filed a complaint with the commission within the statutory period.

1 25. The charging party had no further contact or discussion
2 with any agent of the College of Great Falls following the receipt
3 of the president's letter on August 29th or 30th, and there were
4 no representations made by them upon which the charging party
5 could rely.

6 26. The charging party did not contact either the commission
7 or the Human Rights Division following the termination of the
8 academic appeal process, and instead her initial efforts were to
9 contact attorneys in the Great Falls area with respect to her
10 case; She was unable to obtain the services of an attorney.
11

12 27. The charging party excuses her failure to make any
13 contact with the commission or the division prior to January of
14 1985 on the grounds she was seeking an attorney, she "ran into the
15 holidays," and she felt "the Human Rights Commission wouldn't want
16 to get started [on the case] on the holidays."

17 28. At hearing the charging party repeated the contentions
18 made in her previous written submission and provided the following
19 reasons why her failure to file a complaint within the 180 day
20 period should be excused:

21 a. She was going through the college appeal process
22 where her grade could have been changed at any stage, and she
23 was in the middle of the "negotiation process" with the
24 college, which she did not wish to jeopardize by the filing
25 of a complaint;

26 b. Any delay was due to the fault of President Shields
27 because he had the materials on her case from early July
28 through October 30th, a period of some four months;

29 c. She began contacting attorneys on October 30th, but
30 was unable to obtain the services of one, the holidays
31 intervened and the commission would not want to "get started
32 on the holidays;

1
2 d. Dean Sikora had represented to her that her grade
3 could be changed at any time during the academic appeal
4 process;

5 e. May 12, 1984 should not be the date on which the 180
6 day time period should have commenced, but rather following
7 the receipt of President Shield's letter on October 30, 1984;

8 f. It is a general axiom of law that there should
9 always be time for appeal;

10 g. Federal law takes precedence over state law, and
11 certain federal laws provide for an appeal following the
12 grievance procedure;

13 h. The Montana Legislature is reviewing the question of
14 whether 180 days is a sufficient time for the filing of
15 discrimination appeals;

16 i. It is the basic right of every citizen to appeal;
17 and

18 j. The academic appeal of the College of Great Falls
19 was inadequate because it failed to properly evaluate the
20 grade given on the basis of evidence submitted by the
21 charging party.

22 29. The academic appeal taken before the bodies established
23 by the College of Great Falls was irrelevant to the issue and
24 question of discrimination.

25 30. The charging party did not clearly raise the question of
26 discrimination during the academic appeals process, but this too
27 is not relevant to the question of timeliness.

28 31. The charging party failed to file a complaint within 180
29 days of the alleged unlawful discriminatory act, which was also
30 the date of its discovery.

31 31. The charging party failed to provide any evidence or
32 argument which moved the conscience of the trier of fact and law,

1 hearing matters of equity, to excuse her failure to make a timely
2 filing as required by law.

3 As applied to the foregoing findings of fact, the following
4 conclusions of law are made:

5 CONCLUSIONS OF LAW

6
7 1. The Human Rights Commission of the State of Montana has
8 jurisdiction over the charge of discrimination in this contested
9 case in that the respondent is an "Education institution" within
10 the meaning of §49-2-101(6), MCA, the charging party was an
11 individual enrolled as a student at the respondent college and she
12 complained of discrimination in the terms, conditions or
13 privileges of the institution because of her age and her sex.
14 §49-2-307(1), MCA.

15 2. The date of the alleged unlawful discrimination practice
16 was May 12, 1984, when she received a report card giving her the
17 grade of "B" in a social research methods course, and she failed
18 to file a complaint by November 8, 1984, 180 days from the date of
19 the alleged discriminatory practice.

20 3. The complaint not having been filed within 180 days after
21 the alleged unlawful discriminatory practice, it may not be
22 considered by the commission. §49-2-501(2), MCA.

23 4. The existence or utilization of grievance procedures does
24 not toll the running of the statutory 180-day limitations period
25 or otherwise excuse filing within that period because the remedy
26 afforded the charging party is an independent statutory right.
27 Electrical Workers v. Robbins & Meyers, Inc., 429 U.S. 229, 13 FE
28 Cases 1813, 1815-1816 (1976).

29 5. The Montana Human Rights Act was "closely modeled" upon
30 Title VII of the Federal Civil Rights Act of 1964, and therefore
31 the commission may utilize the rationale of a "considerable body
32 of law" interpreting that Act, and "reference to pertinent federal
case law is both useful and appropriate." Martinez v. Yellowstone

1 County Welfare Dept., 626 P.2d 242, 245 (Mont. 1981); Snell v.
2 Montana Dakota Utilities Co., 643 P.2d 841, 844 (Mont. 1982).

3
4 6. Section 49-2-501(2), MCA with respect to the filing of a
5 complaint within 180 days of the alleged unlawful discriminatory
6 practice or its discovery is not a jurisdictional prerequisite but
7 a requirement subject to waiver or tolling when equity so *Equity*
8 requires, due to the remedial purpose of the Human Rights Act.
9 Zipes v. TWA, 455 U.S. 385, 28 FEP Cases 1, 6 (1982); Simmons v.
10 Mountain Bell, HpE81-1468 (Human Rights Commission, May 8, 1986).

11 7. In this case the unlawful discriminatory practice
12 occurred, and the charging party had knowledge of the facts
13 essential to her complaint as of May 12, 1984; Such was also the
14 date of discovery. Simmons, Id., at 8-9.

15 8. The respondent has not waived the 180-day filing
16 requirement but maintained its affirmative defense of the statute.
17 Id. at 7.

18 9. The charging party has failed to demonstrate that in
19 equity the 180-day requirement has been tolled by way of showing
20 (1) the respondent effectively misled the charging party in an
21 active sense; (2) the charging party was in some extraordinary way
22 been precluded from asserting her rights; or (3) the charging
23 party made a timely submission in the wrong forum. Id. at 12.

24 a. While it may be argued that she relied upon
25 representations that her grade could be "changed at any time"
26 during internal grievance procedures, the procedure under the
27 Human Rights Act is an independent statutory right and
28 procedure (finding 4, above) and she was under a duty to
29 inquire as to her remedies;

30 b. Accepting the assertion of detrimental reliance for
31 the purposes of argument, the charging party ceased
32 communication with the respondent as of October 29th or 30th,
1984 following the complete conclusion of internal

1
2 procedures, and had remaining time in which to file her
3 complaint within the statutory period;

4 c. The charging party was not precluded from asserting
5 her rights within the statutory period in any extraordinary
6 way, and the justifications offered for such purposes failed
7 to demonstrate any valid reason for equitable tolling of the
8 statute;

9 d. The charging party made an untimely submission to
10 the correct forum.

11 10. Since the statutory requirement may be tolled when
12 equity so requires, the maxims of jurisprudence and equity of the
13 Field Civil Code, as adopted by Montana in 1895, are applicable to
14 this contested case, but nothing therein provides any ground for
15 equitable tolling. Title 1, Chapter 3, MCA: and

16 a. There has been no waiver of the statute by the
17 respondent. §1-3-204, MCA;

18 b. The charging party should not be permitted to take
19 advantage of her own failure to inquire as to her rights.
20 §1-3-209, MCA;

21 c. The charging party has not suffered for the act of
22 another but for her own act. §1-3-211, MCA;

23 d. The charging party has failed to properly seek a
24 remedy for the alleged wrong done her. §1-3-214, MCA;

25 e. The law helps the vigilant before those who sleep on
26 their rights, and the charging party was not vigilant but
27 slept on her rights. §1-3-218, MCA.

28 11. With respect to the reasons offered by the charging
29 party to excuse untimely filing contained in paragraph 28 of the
30 findings of fact:

31 a. The availability of a grievance or negotiation
32 process does not excuse timely filing because the procedures

1 under the Human Rights Act are independent of such process.
2 Law Finding 4, supra;
3

4 b. Aside from the fact that available internal remedies
5 or grievance procedures do not toll the time in which to
6 file, there was no delay or detrimental reliance upon the
7 conduct of Dr. Shields in finally reviewing the charging
8 party's academic grievance, and even if there were, the
9 charging party could have filed her complaint within the
10 statutory period;

11 c. The charging party was aware of the existence of the
12 Human Rights Commission and the Human Rights Division of the
13 Department of Labor and Industry and failed to contact such
14 bodies until January of 1985; Neither the charging party's
15 efforts to seek the advice of counsel nor her subjective
16 feeling that the commission would not want to "get started"
17 during a holiday period excuses the charging party's neglect
18 because of her knowledge of the appropriate remedial
19 bodies and her failure to contact them to ascertain what her
20 rights were;

21 d. Any representation that the charging party's grade
22 could be changed at any time is not a ground for the
23 application of the doctrine of detrimental reliance. Law
24 Finding 9, supra;

25 e. As of May 12, 1984 the charging party had knowledge
26 of the facts essential to her complaint, she testified that
27 she "discovered" alleged discrimination as of that date, and
28 May 12, 1984 is the correct date for the purposes of the
29 180-day period. Law Finding 7, supra;

30 f. There is no general axiom of law that there should
31 always be time for appeal, but the law may fix periods of
32 time in which to seek a remedy;

1
2 g. This complaint is not an "appeal" from the
3 procedures of the College of Great Falls, and even if it
4 were, there is no right to an appeal. National Union of M.C.
5 & C. v. Arnold, 348 U.S. 37 (1954);

6 h. While Federal law may take precedence over State law
7 in those instances where the Constitution of the United
8 States permits Congress to regulate a given area of law, none
9 of the Federal statutes cited by the charging party has any
10 applicability to this contested case, and Montana Law has not
11 been pre-empted;

12 i. While Congress has the authority to enter the field
13 of discrimination law, Title VII of the Civil Rights Act of
14 1964 specifically permits the State of Montana to enact and
15 enforce the Human Rights Act, and the 180-day limitation in
16 Montana law is substantially equivalent to applicable Federal
17 law;

18 j. The commission has applied applicable Federal
19 precedent to this ruling. Law Finding 4, 6, supra;

20 k. Whether or not the Montana Legislature is in the
21 process of review of the 180-day requirement, such matter is
22 irrelevant since administrative agencies are to follow and
23 apply their own statutory mandates as previously enacted by
24 the Montana Legislature;

25 l. The merits or procedures of the academic appeal
26 procedures of the College of Great Falls as applied to this
27 contested case are irrelevant. Law Finding 4, supra.

28 12. The law is with the respondent with respect to the
29 question of timeliness under §49-2-501(2) and not with the
30 charging party, and the complaint not having been filed within the
31 time set forth in the Human Rights Act, it may not be considered
32 by the commission.

DISCUSSION

As a supplement to the foregoing findings, it should be noted that the charging party found out she possibly had been discriminated against as of May 12, 1984, when she received a report card giving her a "B" rather than an "A" in a social research methods course. She also testified, under oath, that she had reason to believe or arrive at her own conclusion that she had been discriminated against at the same time.

The law is clear that the existence of internal grievance mechanisms does not excuse the filing of a complaint of discrimination using the procedures adopted by the Montana Legislature for alleged discrimination by educational institutions. The charging party testified that she had been a resident of Montana all her life. She admitted she regularly reads the newspapers (i.e. the Great Falls Tribune) and watches the news on television. It is common knowledge that the activities of the Human Rights Commission are regularly reported in the news media, and the charging party knew, or should have known, that the commission was the appropriate agency to contact for information about the filing of complaints. By her own testimony, the first contact made with the commission or the Human Rights Division was made in January of 1985, long after the expiration of the 180-day period on November 8, 1984.

There is nothing in the record to suggest that faculty members or officials of the College of Great Falls in any way affirmatively attempted to prevent the charging party from filing a complaint against it, and the charging party had sufficient time following the completion of the grievance process to file her complaint even if she feared that the filing of a complaint in some way would jeopardize her grievance or "negotiations" with the College. While the charging party does have the right to counsel in proceedings before the commission, seeking counsel does not

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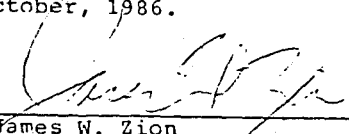
excuse compliance with the clear requirements of the Human Rights Act more likely than not that any attorney contacted by the charging party would have advised her of the 180 day period in which she must file and of the existence of the commission as the proper remedy.

While the charging party put forward many justifications for her failure to file within the 180-day period, none move the conscience of the commission in applying principles of equity to the situation. Instead it appears that the charging party failed to make reasonable inquiry as to her rights, was not vigilant in the pursuit of her rights and instead slept on her rights. She comes before the commission at fault for her failure to file, and there is no apparent reason why her own fault should be excused.

PROPOSED ORDER

Gertrude Lindgren, the charging party, having failed to file a complaint with the commission within 180 days after the alleged unlawful discriminatory practice occurred or was discovered, such complaint may not be considered by the commission under the clear requirements of §49-2-501(2), MCA, and it should be dismissed.

DATED this 16th day of October, 1986.


James W. Zion
Hearing Examiner

Rec
10-17-96

SENATE JUDICIARY

EXHIBIT NO. 4

DATE Jan. 27, 1998

BILL NO. SB 152

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

GERTRUDE LINDGREN,)
Charging Party,) Case No. SAEd85-2711
vs.) NOTICE OF ENTRY OF
COLLEGE OF GREAT FALLS,) PROPOSED ORDER
Respondent.)

TO: Gertrude Lindgren, charging party
Dr. William A. Shields, for the respondent

PLEASE TAKE NOTICE that on this date the hearing examiner of the Human Rights Commission has made and filed his written proposed order in this contested case, and such order is final for the hearing examiner.

Under the provisions of §24.9.245, Administrative Rules of Montana, if any party or the Human Rights Division is dissatisfied with the proposed order, written exceptions must be filed at the offices of the Human Rights Commission, P.O. Box 1728, 1236 6th Avenue, Helena, Montana 59624, within twenty (20) days of the date of the proposed order, or within ten (10) days after the filing of exceptions by another party or the Division.

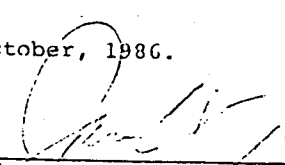
The first party to file exceptions to the proposed order as not having been based upon the evidence at hearing must, at the time of filing such exceptions, request a written transcript of proceedings or indicate one will be filed within forty (40) days after the date of the proposed order. Any party requesting a transcript must pay for it and make provision for payment at the time a request is made.

Briefs of law must be filed with the exceptions unless exceptions are made to findings of fact, in which case a brief

1 need not be filed until twenty (20) days after the filing of the
2 written transcript.

3 A copy of the proposed order of the hearing examiner is
4 served with this notice.

5 DATED this 16th day of October, 1986.

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8 
9 James W. Zion
Hearing Examiner

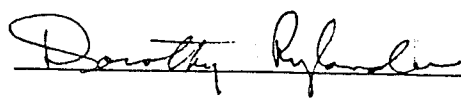
10 CERTIFICATE OF SERVICE

11 The undersigned secretary of the Human Rights Division, Department
12 of Labor and Industry, certifies that copies of the foregoing
13 NOTICE OF ENTRY OF PROPOSED ORDER as well as the PROPOSED ORDER
14 recited therein were mailed to the parties named below, and on the
15 date indicated, by means of first class mail.

16 Gertrude Lindgren
17 400 1st Avenue N.W.
Great Falls, MT 59404

18 Dr. William A. Shields
19 College of Great Falls
20 1301 20th Street South
Great Falls, MT 59405

21 DATED: 10-16-86

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PERSONNEL OFFICE

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

January 23, 1987

SEN. JUDICIARY

EXHIBIT NO. 5

DATE Jan 27 1987

BILL NO. SA152

Senator Mike Walker

Senator Joe Mazurek, Chairman
Senate Judiciary Committee

RE: SUPPORT OF SENATE BILL #152

Dear Senators:

This letter is written in support of Senate Bill #152 which proposes to extend the time for filing a complaint with the Commission for Human Rights if the parties attempt to resolve the dispute by settlement, arbitration or any other method.

Recently, the City of Missoula was involved in a discriminatory complaint that was filed by an employee against the City and in order to resolve the claim, the employee filed a discrimination claim simultaneously with both the Human Rights Division and the employee's bargaining unit grievance committee. Due to the fact that the employee was following two different discrimination claim procedures, the City Personnel Office had a difficult time trying to resolve the grievance in a manner that would be acceptable to both parties that the claim was filed with. In addition, twice as much staff time was spent preparing written responses and appearing at meetings and hearings to discuss the discrimination claim because of the requirements to respond under both processes.

If this bill were approved, an employee would still have the ability to file a claim with the Human Rights Division if the employee felt that the claim had not been properly resolved within the discriminatory claim procedures adopted by either their employer's personnel policies or outlined in a collective bargaining agreement. In addition, costs to both the employee and employer would be reduced because the time spent trying to resolve the grievance under one procedure would be less than trying to comply with two procedures simultaneously, if the claim was resolved during the initial claim procedure. In addition, by adopting this bill, the number of discrimination claims filed with the Human Rights Division should be reduced because some of the claims would be solved following the procedure for resolving discrimination claims outlined in the employer's personnel policies and/or a collective bargaining agreement.

Please feel free to contact me regarding the reasons why the City of Missoula supports this particular bill. Your consideration of the City of Missoula's position on Senate Bill #152 is greatly appreciated.

Respectfully Submitted,

Kathi Mitchell /mbr

Kathi Mitchell
Personnel/EEO Officer
City of Missoula

KM:mr

cc: Senator Bill Farrell
Senator Mike Halligan
Senator Bill Norman
Senator Fred Van Valkenburg

SENATE JUDICIARY

EXHIBIT NO. 5

DATE Jan 27, 1987

BILL NO. SB 152

Amend HB 152 as follows:

Page 2, lines 4 through 12, substitute the following language for the presently proposed language:

(b) In the event that the complainant is covered by a grievance procedure properly established by collective bargaining agreement, rule, or policy, a complaint may not be filed until 180 days after failure of all reasonable good faith attempts to resolve the matter through the grievance procedure. In the event the grievance procedure culminates in a decision by an unbiased decision maker, the commission and its staff in considering a complaint must give due consideration to the decision of the unbiased decision maker and must abide by the decision unless it is not based upon fact, is repugnant to the purposes of this chapter, or one or more of the conditions listed in 27-5-312 and 313, M.C.A., are found to be present.

Page 3, line 2 through 10, substitute the following language for the presently proposed language:

(2) In the event that the complainant is covered by a grievance procedure properly established by collective bargaining agreement, rule, or policy, a complaint may not be filed until 180 days after failure of all reasonable good faith attempts to resolve the matter through the grievance procedure. In the event the grievance procedure culminates in a decision by an unbiased decision maker, the commission and its staff in considering a complaint must give due consideration to the decision of the unbiased decision maker and must abide by the decision unless it is not based upon fact, is repugnant to the purposes of this chapter, or one or more of the conditions listed in 27-5-312 and 313, M.C.A., are found to be present.

would stop the Army from coming into a school and asking teachers about students who have shown interest in joining the service. He said a teacher could tell the Army as easy as any records could show if a kid has been in trouble before. He stated he did not believe it was the school's business to know what kids do after school off school property. He felt it wasn't fair if one student was drinking and one wasn't, but was at the party, get the same punishment. Senator Blaylock didn't like the contracts students signed so they could play in sports either. Senator Pinsoneault said if a student signs a contract to play a sport and the contract says no drinking, then the student should know the consequences. Senator Bishop asked if the passed amendments would only allow an identity of a student if the student was just arrested, but not charged. Senator Halligan said the student can be just charged for being at a beer bust or just seen at one and still be reported. Senator Van Valkenburg thought the three terms were about the same when it came to this bill. Senator Brown felt the guidance counselor will still have some trouble getting information about kids even with this bill. He wanted to insert into the bill that a student must attend a program by the guidance counselor on alcohol. Senator Blaylock asked Senator Van Valkenburg if he ever drank while in high school. Senator Van Valkenburg stated he was caught drinking and the school would not allow him to run for studentbody president because of it. The motion CARRIED with Senator Blaylock voting no.

ACTION ON SB 51: Senator Mazurek asked the committee if they wanted a subcommittee for this bill. The committee, after some reluctance, decided to think about having a subcommittee.

ACTION ON SB 152: The committee received amendments from Senator Walker for SB 152 (see Exhibit 3). Senator Pinsoneault said the law doesn't need to be amended he felt a 180 days was plenty of time to get the issue settled. Senator Mazurek said anytime one changes the statute of limitations it causes problems. He said the bill would have benefits for both sides of the issue, but the language has to be just right for it to work. Senator Mazurek thought maybe 180 days were not enough time. Senator Bishop stated the filing is not hard to do at all. Senator Mazurek thought a filing against the Human Rights Commission was difficult to do. Senator Bishop moved the bill DO NOT PASS. The motion CARRIED with Senator Yellowtail voting no.

ACTION ON SB 161: Valencia gave amendments to the committee (see Exhibit 4). The amendments would extend the term of the justice for another eight years; an extended sunset period. Senator Blaylock moved the amendment. Senator Halligan questioned doing this because the projection, stated in the hearing, made it sound like the case load will be the same as it is now in eight years. The amendment FAILED with Senators Crippen, Pinsoneault, Yellowtail, Galt, and Halligan voting no.

Senator Brown moved the bill DO PASS. The motion CARRIED.

STANDING COMMITTEE REPORT

February 3

87

19.....

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on.....

SENATE BILL

152

having had under consideration..... No.....

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Extend time for filing complaint with human rights commission.

SENATE BILL

152

Respectfully report as follows: That..... No.....

~~DO NOT PASS~~

DO NOT PASS

Senator Mazurek

Chairman.

knows, there has not been a case under the Montana Supreme Court.

Senator Brown closed the hearing on SB 173.

SENATE BILL NO. 152: Senator Walker, District No. 20, stated this is a bill that extends the time for filing a complaint with the Commission for Human Rights, be increased if the complainant has attempted to resolve the dispute through a grievance procedure. This bill adds 120 days to negotiate so there is neutral ground before a filing of a complaint.

There were no proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 152: Rep. Rapp-Svrcek asked Senator Walker if this bill includes provisions for determining if people are bargaining in good faith and Senator Walker stated there is not anything in the bill for bargaining in good faith, they just have the opportunity to bargain for 120 days. Rep. Rapp-Svrcek asked Senator Walker if people are required to wait for 120 days before filing a complaint. He said, "no".

Senator Walker closed the hearing on SB 152 by stating this is a matter of working things out on a common ground and he urged support.

ADJOURNMENT: There being no further business to come before this committee, the hearing was adjourned at 11:00 a.m.



EARL LORY, Chairman

JUDICIARY COMMITTEE

March 1987

Page

call and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Grady moved that SB #130 Be Concurred In As Amended. Question was called and a voice vote was taken. The motion CARRIED 12-3. SB 130 BE CONCURRED IN AS AMENDED.

ACTION ON SENATE BILL NO. 152:

Rep. Brown moved that SB 152, Be Concurred In. Rep. Addy stated that the whole purpose of the bill is that the Supreme Court has held that the short statute of limitations is unconstitutional recently, so, this bill is conforming the statutory requirement of filing claims and there is no big policy question. Question was called and a voice vote was taken. The motion CARRIED 14-2, with Reps. Hannah and Giacometto dissenting. SB #152 BE CONCURRED IN.

ACTION OF SENATE BILL NO. 164:

Rep. Addy moved that SB #164, Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB #164, BE CONCURRED IN.

ACTION OF SENATE BILL NO. 173:

Rep. Hannah moved that SB #173, Be Not Concurred In. Rep. Addy stated that the privilege is being changed an awful lot and when it comes to the marital relationship the privilege is being taken away. Rep. Miles pointed out that it is 1987 and we should think about the fact that one person can not tell a spouse what to say or not say. Rep. Addy stated that unless the person against whom the testimony is offered has the privilege, it is no privilege at all. He further stated that the relationship will not be secure between the husband and wife. Rep. Keller stated that the county attorney testified to the fact that times have changed and that this bill should pass. Rep. Miles requested that the committee at least consider passing sections two and three and section one could be deleted so that the good parts of the bill can be saved. Rep. Meyers agreed with the motion. Rep. Addy moved that sections 1, 3, and 4 be deleted. Rep. Hannah stated that was not worth saving and he moved to Table SB #173. Question was called and a voice vote was taken. The motion FAILED 5-11. Question was called and a voice vote was taken on Rep. Addy's amendment. The motion FAILED 6-9. Question was called. A Roll Call vote was called. The motion FAILED ON A TIE VOTE OF 9-9. (See Attached Roll Call Vote). Rep. Meyers moved that SB #173, be tabled. The motion CARRIED unanimously. SB #173 TABLED.

SENATE BILL NO. 152

INTRODUCED BY WALKER, LYNCH, REGAN, JACOBSON,
SQUIRES, MCCALLUM, FARRELL, MANNING, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE TIME FOR FILING A COMPLAINT WITH THE COMMISSION FOR HUMAN RIGHTS BE INCREASED IF THE PARTIES ATTEMPT TO RESOLVE THE DISPUTE BY SETTLEMENT, ARBITRATION, OR ANY OTHER METHOD COMPLAINANT HAS ATTEMPTED TO RESOLVE THE DISPUTE THROUGH A GRIEVANCE PROCEDURE; AMENDING SECTIONS 49-2-501 AND 49-3-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-2-501, MCA, is amended to read:

"49-2-501. Filing complaints. (1) A complaint may be filed by or on behalf of any person claiming to be aggrieved by any discriminatory practice prohibited by this chapter. The complaint must be in the form of a written, verified complaint stating the name and address of the person, educational institution, financial institution, or governmental entity or agency alleged to have engaged in the discriminatory practice and the particulars of the alleged discriminatory practice. The commission staff may file a complaint in like manner when a discriminatory practice

comes to its attention.

(2) (a) Except as provided in subsections SUBSECTION (2)(b) and (2)(c), a complaint under this chapter must be filed with the commission within 180 days after the alleged unlawful discriminatory practice occurred or was discovered.

(b) A complaint need not be filed until 180 days after failure of all reasonable good faith attempts to resolve the matter by:

(i) negotiation;

(ii) settlement;

(iii) arbitration;

(iv) an administrative, grievance, or other procedure adopted by either party; or

(v) any other method;

(c) For purposes of subsection (2)(b), the period for making all reasonable good faith attempts to resolve the matter is limited to 6 months after the alleged unlawful discriminatory practice occurred or was discovered, but the 6-month period may be extended for an additional 6 months upon written agreement of the parties;

(B) IF THE COMPLAINANT HAS INITIATED EFFORTS TO RESOLVE THE DISPUTE UNDERLYING THE COMPLAINT BY FILING A GRIEVANCE IN ACCORDANCE WITH ANY GRIEVANCE PROCEDURE ESTABLISHED BY A COLLECTIVE BARGAINING AGREEMENT, CONTRACT, OR WRITTEN RULE OR POLICY, THE COMPLAINT MAY BE FILED WITHIN

180 DAYS AFTER THE CONCLUSION OF THE GRIEVANCE PROCEDURE IF THE GRIEVANCE PROCEDURE CONCLUDES WITHIN 120 DAYS AFTER THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE OCCURRED OR WAS DISCOVERED. IF THE GRIEVANCE PROCEDURE DOES NOT CONCLUDE WITHIN 120 DAYS, THE COMPLAINT MUST BE FILED WITHIN 300 DAYS AFTER THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE OCCURRED OR WAS DISCOVERED.

~~(d)~~(C) Any complaint not filed within the time times set forth herein may not be considered by the commission."

Section 2. Section 49-3-304, MCA, is amended to read:

"49-3-304. Filing complaints. (1) A Except as provided in subsections SUBSECTION (2) and--(3), a complaint under this chapter must be filed with the commission within 180 days after the alleged unlawful discriminatory practice occurred or was discovered.

~~(2)--A complaint need not be filed until 180 days after failure of all reasonable good faith attempts to resolve the matter by:~~

~~(a)--negotiation;~~

~~(b)--settlement;~~

~~(c)--arbitration;~~

~~(d)--an administrative, grievance, or other procedure adopted by either party, or~~

~~(e)--any other method;~~

~~(3)--For purposes of subsection--(2), the period for~~

~~making all reasonable good faith attempts to resolve the matter is limited to 6 months after the alleged unlawful discriminatory practice occurred or was discovered, but the 6-month period may be extended for an additional 6 months upon written agreement of the parties;~~

(2) IF THE COMPLAINANT HAS INITIATED EFFORTS TO RESOLVE THE DISPUTE UNDERLYING THE COMPLAINT BY FILING A GRIEVANCE IN ACCORDANCE WITH ANY GRIEVANCE PROCEDURE ESTABLISHED BY A COLLECTIVE BARGAINING AGREEMENT, CONTRACT, OR WRITTEN RULE OR POLICY, THE COMPLAINT MAY BE FILED WITHIN 180 DAYS AFTER THE CONCLUSION OF THE GRIEVANCE PROCEDURE IF THE GRIEVANCE PROCEDURE CONCLUDES WITHIN 120 DAYS AFTER THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE OCCURRED OR WAS DISCOVERED. IF THE GRIEVANCE PROCEDURE DOES NOT CONCLUDE WITHIN 120 DAYS, THE COMPLAINT MUST BE FILED WITHIN 300 DAYS AFTER THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE OCCURRED OR WAS DISCOVERED.

~~(4)(3)~~ A complaint not filed within that time the times set forth in this section may not be considered by the commission."

NEW SECTION. Section 3. Extension of authority. Any existing authority of the human rights commission to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 4. Effective date --

1 applicability. (1) This act is effective on passage and
2 approval.

3 (2) This act applies ~~retroactively, within the meaning~~
4 ~~of 1-2-189, MCA, to July 1, 1986~~ TO CLAIMS ACCRUING AFTER
5 THE EFFECTIVE DATE OF THIS ACT.

-End-